

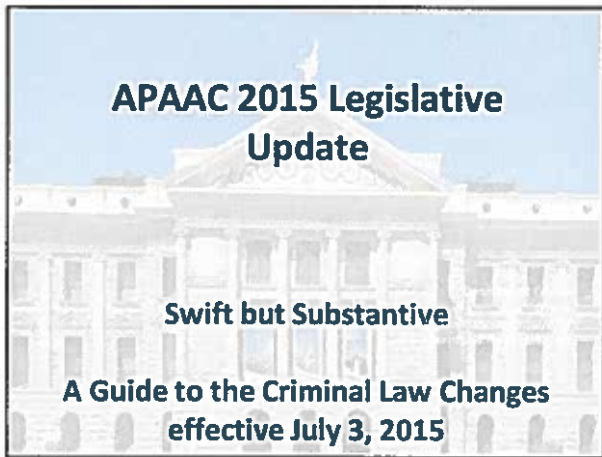


APAAC 2015 Legislative Update

Swift but Substantive

**A Guide to the Criminal Law Changes
effective July 3, 2015**

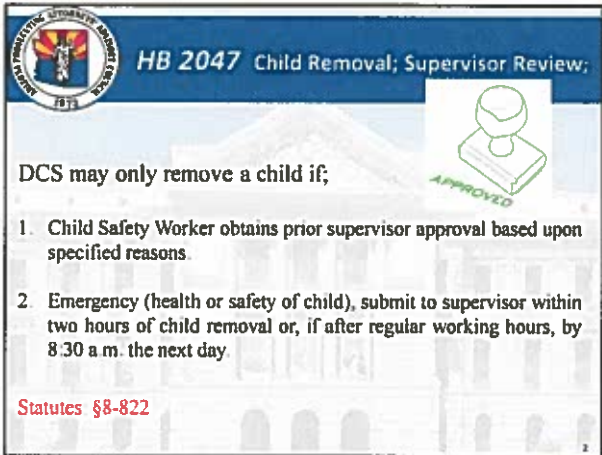
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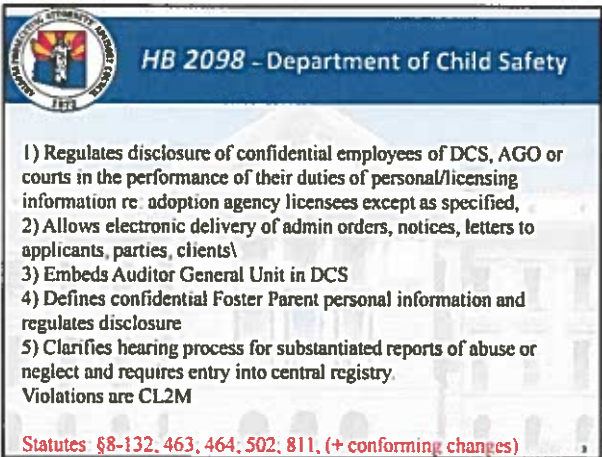


HB 2047 Child Removal; Supervisor Review;

DCS may only remove a child if;

1. Child Safety Worker obtains prior supervisor approval based upon specified reasons.
2. Emergency (health or safety of child), submit to supervisor within two hours of child removal or, if after regular working hours, by 8:30 a.m. the next day.

Statutes §8-822




HB 2098 - Department of Child Safety

- 1) Regulates disclosure of confidential employees of DCS, AGO or courts in the performance of their duties of personal/licensing information re: adoption agency licensees except as specified,
- 2) Allows electronic delivery of admin orders, notices, letters to applicants, parties, clients\
- 3) Embeds Auditor General Unit in DCS
- 4) Defines confidential Foster Parent personal information and regulates disclosure
- 5) Clarifies hearing process for substantiated reports of abuse or neglect and requires entry into central registry.

Violations are CL2M

Statutes §8-132, 463, 464, 502, 811, (+ conforming changes)




HB 2100 DCS Employee Information; Confidentiality

DCS information must be disclosed to law enforcement/court if necessary to protect employee of DCS/AGO or a family member; recipient subject to confidentiality unless authorized by law or a court order.

Includes DCS employees in confidentiality statutes for state, county recorder/assessor/treasurer, voter registration, ADOT and local governmental personnel files, unlawful to knowingly provide via the worldwide web.

Class 6 felony: knowingly release home address/telephone number of with intent to hinder an investigation, cause physical injury or damage to the property/immediate family of specific eligible persons.

Statutes § 8-807, 11-483, 4, 13-2401, 16-153, 28-454, 39-123, 4



HB 2166 DCS Information; Egregious Abuse; Neglect

Specifies:


Procedures and content for releasing information in child near/fatality cases;

Notice to parties and consultation with county attorneys to preserve integrity of criminal investigations/prosecutions.

Court considers *in camera* whether disclosure would cause a specific material harm to a criminal prosecution.

Victims rights.

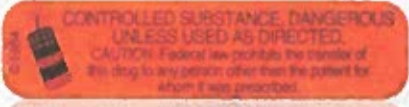
Statutes § 8-471, 8-525, 8-541, 8-807, 807.01, 811, 13-4434




HB 2139 Controlled Substances; Schedules

Updates the schedules of controlled substances, contained in the Arizona Uniform Controlled Substances Act (Act), to conform to federal changes.

Statutes §36-2512 through 2516






HB 2322 Misbranded, Counterfeit Drugs

Racketeering = manufacturing, selling or distributing **misbranded drugs** CL4F.
 Possession or use CL2M. \$1,000 civil penalty

Misbranded = not FDA approved or not obtained from licensee of FDA, Board of Pharmacy or ADHS, except if:


- a. Authorized by a state law, or
- b. Imported under Food, Drug and Cosmetic Act, or
- c. FDA announcement for clinical research, drug shortages, development of countermeasures to terrorism agents, or pandemic influenza preparedness and response

Statutes: § 13-2301, 13-3406, 32-1967 AND 44-1453




HB 2294 Approved Treatment Facilities

Allow use of VA-approved of treatment programs for problem solving courts for BUI, DUI, DV



Statutes: § 5-395.01, 13-3601.01, 28-1387, 1445





HB 2307 Court Ordered Treatment; Hearings (MCAO)

Requires mental health evaluation agency disclosure to the court of all drugs, medication and treatment that an inpatient has received during the 72 hours immediately prior to court-ordered mental health hearing.

Hearing may proceed even if patient cannot be present for psychiatric reasons or there is no reasonably feasible means.


Statutes §36-539






HB 2310 Mental Health Courts; Establishment

Regional Mental Health Court
 Counties < 250,000 population
 Presiding judge may contract to refer and
 adjudicate cases with notice to prosecutor.


MENTAL HEALTH COURT 

Statute: § 12-132




SB 1035 DV Treatment Programs; Providers (AOC)

Allows the
 Supreme Court to
 approve a
 domestic violence
 treatment provider
 facilities.




Domestic Violence Program

Statutes 13-3601.01



HB 2089 Agg assault; judicial officers (AOC)




Adds judicial officer to definition;
 Adds for police, constable, fire, park rangers, ems,
 prosecutor, public defender, code enforcement and judicial officer
 knowing./having reason to know:

- victim is engaged in official duties, or
- resulting from the execution of the judicial officer's official duties.

Class 6 felony

Statutes § 13-1204

 **HB 2299 Sexual Offenses, Definition, Defense (MCAO)**


CL2F- sexual conduct with a minor by a person in a *position of trust*:


Person who is or was:

1. Parent, stepparent, adoptive parent, legal guardian or foster parent or anyone involved in a sexual/romantic relationship with them.
2. Teacher, coach, or instructor (whether an employee or volunteer).
3. Clergyman or priest.


No defense for 15, 16, 17 year old consent.

Statute: § 13-501, 13-1401, 13-1404 AND 13-1405




 **HB 2304 Agg Assault, Simulated Deadly Weapon (MCAO)**

CL3F:
Aggravated assault using a simulated deadly weapon.



Statute: §13-1204

 **HB 2378 Unlawful Sexual Conduct; Peace Officers; (PCAO)**


Peace officer knowingly engaging in Oral/sexual contact or intercourse with person in custody or subject of an investigation.


CL2F victim <15
CL3F victim 15 to 17
CL5F all others.

Does not include: direct/indirect touching/manipulating during lawful search.


An officer married to or in a romantic or sexual relationship with the person at the time of the arrest or investigation

Statute: § 13-1412





 **HB 2399** Game & Fish, Hunter Harassment

Game and Fish Commission license revocation for: intentionally interfering with, preventing, or disrupting the lawful taking of wildlife.



Statute: § 17-340

 **SB 1046** Criminal Trespass, First Degree



Increase from a CL6F to CL5F:

criminal trespass in the first degree by knowingly entering or remaining unlawfully in or on a critical public service facility.

Statute: § 13-1504


 **SB 1063** Obstructing Highway or Thoroughfare

CL3M

Pedestrian intentional activation of the pedestrian signal on highway or public thoroughfare to both stop traffic in order to solicit money/donation.



Statute: § 13-2906




SB 1094 Aggressive Solicitation; Offense

Petty Offense: Soliciting (Instead of begging in public):

- Within 15 feet of bank or ATM without permission
- In a public area via:
 - physical contact/touching
 - approaching/following to cause reasonable fear of:
 - imminent bodily harm or damage
 - loss of property
- After a clearly communicated request to stop.
- Obstructing the safe or free passage.
- Using obscene or abusive language/gestures.

Statute: § 13-2905, 13-2914



SB 1179 Criminal Damage; Gangs


CL5F damage to property to promote, further or assist any criminal street gang or criminal syndicate with the intent to intimidate.

CL4F if damage:

- \geq \$10,000;
- to utility property \geq \$5,000; or
- or causes imminent safety hazard

Statute § 13-1602






SB 1300 Law Enforcement; Body Cameras


15 member Study Committee to recommend policies/ laws on law enforcement use of body cameras by December 31, 2015.

Session Law




 **HB 2308 Eligibility; Defensive Driving Class**


- Reduces the length of time between traffic violations for eligibility to attend defensive driving school from 24 months to 12 months.



§ 28-3392


 **HB 2272 Officers; Firearm Purchase**

Peace officer* purchase employer-issued firearms:
 Upon retirement
 Used during employment
 Price set by administrator



*AZPOST-certified, detention or corrections, a non-probationary regularly appointed or employed deputy county sheriff, municipal police, surveillance, juvenile detention officer, juvenile/adult probation officers also members of ASRS, PSPRS, CORP, or EORP.

Statute: § 38-1115


 **HB 2300 Concealed Weapons; Prosecutors (MCAO)**

Former municipal/county/state prosecutors =
qualified retired law enforcement officers per LEOSA* so authorized to carry a concealed firearm in any jurisdiction.


- Prosecutorial agency:
 issues photo ID indicating former employment regardless of subsequent employment
- Prosecutor must pass AZPOST-approved pistol qualifying exam by an AZPOST-or NRA-certified firearms instructor annually.

*Federal Law Enforcement Officers Safety Act


Statute: § 13-3112, 3

 **HB 2527 Firearms; Prohibited Laws**


Reserves to the legislature all power to enacting or implement any law, rule, or ordinance relating to the transfer of firearms. Preempts any other state, county, local regulation.



Statute: § 13-3118

 **SB 1189 Firearm Possession; Felony Conviction**

Upon set aside of a conviction for a non-serious, non-dangerous felony, automatically restores the firearm rights; waives two-year waiting period.



Statute: § 13-907

 **HB 2432 Arizona First Responders' Day**

September 27th Arizona Annual First Responders' Day of Gratitude and Remembrance.

First responders, past and present


Demonstrate appreciation
Pay tribute

Extraordinary dedication
Preserve/protect public peace/safety

(Not a legal holiday)




Statute: § 1-314




HB 2438 PTSD; Public Safety Study Committee

15 member Study Committee to research and report on the effects of PTSD on state and local law enforcement officers by September 1, 2016.




Session Law



HB 2517 Internet Child Crime & Victims Fund


Allocates proceeds of any lottery games sold from a vending machine:

\$900,000: to Internet Crimes Against Children Enforcement Fund adds investigators for 15,000 pending cases.



\$100,000 Victims' Rights Enforcement Fund.
Requires notice to web host provider upon LE discovery of a site containing material exploiting children.

Statute: § 5-554, 5-568, 5-572, 13-3562, 41-199, 41-1727




SB 1069 Ordinances; Prohibited Security Req.

Prohibits Counties/Municipalities from:


- Requiring businesses to install security cameras/lights based on:
 - Size/type of the business;
 - Number of LE calls made by the business

Exclusions:

- bar, hotel, restaurant,
- live entertainment or age restricted venue
- MMJ dispensary or cultivator





Statute: § 9-500 34, 11-269 13



SB 1186 Fallen Correctional Officers Memorial


- Authorizes ADOA to place a memorial dedicated to fallen ADC employees in Wesley Bolin Plaza (between the ADC buildings).
- Funding is the sole responsibility of the proponents.






HB 2164 Release; Bailable Offenses (PCAO)

Court bail decisions shall consider:




1. Prior Arizona arrests/or convictions for serious offense/violent or aggravated felony (13-706) or the equivalent of out of state.
2. Evidence re danger to the community.
3. Any DV related risk or lethality assessment.

Statute: § 13-3906, 13-3967




SB 1064 Service of Process; Regulation



- Transfers private process servers regulation from Title 11 to Title 12;
- Photo enforcement process service/NOV substitute service must be:
Both certified and regular mail, and
Posted on the front door and if a residence, the garage door, if present and accessible.
- Specifies that service of the complaint is complete on filing the mailing receipt and proof of posting with the court that has jurisdiction of the violation.


Statute: § 11-445, 12-3251, 28-1593, 28-1602



SB 1170 Anti-Racketeering Fund; Qtrly Reports

- Requires a link to the ACJC Compilation on each county's website.
- Departments and agencies filing a report w/ AGO or CA must also file with:
 - BOS if sheriff rec'd funds;
 - City/town council if its department rec'd funds.


Statute: § 11-224, 13-2314.01, 03



HB 2085 - Private Investigators; Security Guards; Regulations (DPS)

- Describes management of the Board.
- DPS, after investigation, may suspend license of PI or security guard arrested for offense that would preclude initial licensure.
- PI must notify employer of arrest within 48 hours; employer must notify DPS within 24 hours.
- Security guard agency must maintain liability insurance throughout its licensure.
- Disciplinary actions against a PI or security guard apply to all similar licenses or registrations held by that person.

Statute: § 32-2406, 9, 57, 32-2462, 32-2616, 36



HB 2086 - Fingerprint Clearance Cards; Omnibus


- Level One FCC for DCS employees who contact children or work in IT.
- Fingerprint-based criminal history check for DEMA employees (non Natl Guard) confidentiality
- No FCC for anyone convicted of criminal trespassing or criminal burglary.
- DPS must deny an FCC application if unable to determine if person is awaiting trial or convicted of any offense that would preclude an FCC
- Requires driving restriction notation on current regular or Level One FCC upon arrest for DUI-related offense.


Statute: § 8-463, 26-103, 41-619.51, 41-1758.01, 02, 03, 04, 07

 **HB 2087 – Sex Offender Registration**

CL4F if registered sex offender fails to verify the individual's address upon request by DPS.




 **HB 2204 Criminal Restitution Order; Courts**




- Limited jurisdiction court may enter a criminal restitution order at the time defendant is ordered to pay restitution.
- Court may allocate all or a portion of a fine as restitution for a victim of a traffic accident due to failure to stop or remain at the scene of an accident if vehicle damage.

Statute: § 13-805, 9

 **HB 2289 Repetitive Offenders; Sentencing (MCAO)**

- **Sentenced (§13-702):**
As a category one repetitive offender for second offense if 2+ felonies not committed on the same occasion, but consolidated for trial or not historical prior felony convictions.
As a category two repetitive offender for the third and any additional felony convictions.
- Dangerous offenses committed while on release/escape = revocation and sentence consecutive to that for which temporary released was granted or escape, unless the sentence from which the convicted person was on out of state parole or probation.

Statute: § 13-703, 8




HB 2301

Historical Prior Felony Conviction

XXX

- Historical prior felony conviction* includes any felony conviction that is the third or more prior felony conviction, even if it was in another state.
- Out of state felony conviction to be considered in classifying a category one repetitive offender; category two offender if the person has three or more felony convictions that were not committed on the same occasion, but consolidated for trial or not historical prior felony convictions.

Statute § 13-105, 13-703



HB 2553

Sex Trafficking Victim; Vacate Conviction

- Sentencing court may vacate prostitution convictions prior to July 24, 2014 upon clear and convincing evidence =sex trafficking victim
 - No hearing if the prosecutor does not oppose
- Court action:
 - Release all penalties/disabilities
 - Order notation in the court file and law enforcement, prosecution records and transmit to the arresting agency, the prosecutor and DPS.
- Not a historical prior; cannot be alleged for any purpose (§ 13-703).
- Now: Victim may state no arrest, charged or conviction of a crime on employment, housing, financial aid or loan applications, except employment applications requiring FCC.

Statute § 13-907.01




SB 1002

Prisoners; Labor Compensation


Hourly wage cap for inmate labor performed for ADC or a government entity pursuant to an IGA from \$0.50 per hour to \$1.50 per hour.



Statute § 31-254




SB 1116
Community Restitution;
Fines, Fees, Costs




Lower jurisdiction court may order community restitution of \$10 per hour in lieu of the payment for all or part of the fine, fee, assessment or incarceration costs if:

- defendant is unable to pay
- unless defendant willfully fails to pay or intentionally refuses to make a good faith effort to obtain monies required for the payment.

Statute: § 13-810, 13-824, 28-1389




SB 1295
Fingerprinting; Judgement of Guilt
(ACJC)



- Booking agency takes ten-print fingerprints if cannot determine if taken by the arresting authority.
- Court/appointee may obtain, record two fingerprint biometric-based identifier in case file, rather than permanently affix a fingerprint to the sentence document/minute order and certify.
- Sentence document/minute order must indicate if offense committed while on release from confinement.
- Person arrested for a DV/sex/DUI misdemeanor shall not be released until providing either fingerprint or two fingerprint biometric-based identifier.

Statute: § 13-607, 13-3903, 41-1750



SB 1373
Criminal Justice Information; Access

For the purpose of enforcing a court order, assisting in an investigation, or returning property, *DPS shall* provide to law enforcement, this case information, as received from the Supreme Court:

- persons found to be incompetent or subsequently competent or guilty except insane;
- orders for mental health treatment; and
- orders relating to mental incapacity.

Statute § 13-607, 13-3903, 41-1750